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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,547	02/14/2002	Doug Ulbrich	9325-3CT1 (156244)	1112
7590 05/18/2004			EXAMINER	
Thomas J. Durling, Esq. Drinker Biddle & Reath LLP One Logan Square 18th and Cherry Sts. Philadelphia, PA 19103-6996			PATTERSON, MARC A	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 05/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,547

Applicant(s)

ULBRICH ET AL.

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 18-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 and 18-23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 second paragraph rejections of Claims 5 – 11 and 18 – 20, of record on page 2 of the previous Action, are withdrawn.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 11 and 18 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al (European Patent No. 0498249) in view of Rossini (U.S. Patent No. 5,658,420) and Wallace (European Patent No. 0023788).

With regard to Claims 1, 4, 6 11 and 18 – 23, Anderson et al disclose a heat shrinkable web (film; therefore having opposite edges with a length defined therebetween; page 2, lines 1 – 13) on which labels for containers are printed (page 2, lines 1 – 13). During the printing of the web and its label – to – container feeding operation, automatic flying splicing of a roll of expiring film to a new roll of film takes place in order for the operation to be continuous (page 8, lines 4 – 9); Anderson et al therefore disclose a label comprising first and second elongated webs, and the use of a splice member adapted to overlap a terminal portion of each of the webs with the web arranged in an abutting relationship, adhered to the ends of the webs over the

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printing thereon. Anderson et al fail to disclose a splice member which is heat – shrinkable, having an adhesive coating on its surface.

Rossini teaches that it is well known in the art to use an adhesive tape as the splice member to form a flying splice between two webs (column 1, lines 34 – 48) for the purpose of joining the webs together quickly and accurately (column 3, lines 35 – 47). Therefore, one of ordinary skill in the art would have recognized the advantage of providing for the adhesive tape of Rossini in Anderson et al, which comprises a splice member, depending on the desired speed and accuracy of making the end product as taught by Rossini.

Wallace teaches the use of a heat – shrinkable adhesive tape (patch; second paragraph, page 5) to adhere overlapping web edges (second paragraph, page 5) for the purpose of obtaining good adhesion for web edges which are heat shrinkable (heat – recoverable; first paragraph, page 1). Therefore, one of ordinary skill in the art would have recognized the advantage of providing for the heat – shrinkable adhesive tape of Wallace in Anderson et al, which comprises heat – shrinkable web edges, depending on the adhesion desired for the end product as taught by Wallace.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for an adhesive tape in Anderson et al in order to join webs together quickly and accurately as taught by Rossini and to have provided for a heat – shrinkable adhesive tape in Anderson et al in order to adhere web edges which are heat shrinkable as taught by Wallace.

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With regard to Claims 2 – 3 and 9, the tape which is taught by Wallace comprises polyethylene crosslinked by irradiation (second paragraph, page 14 of Wallace) and is therefore transparent.

With regard to Claim 5, 7 – 8 and 10, the web which is disclosed by Anderson et al is a laminate of two plies of polypropylene film (page 7, lines 35 – 38) and Wallace teaches that the splice tape, and therefore the web, changes dimension in the longitudinal and / or transverse direction (first paragraph; page 6); the shrinkage of the splice tape and web are therefore bi – directional.

ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejections of 5 – 11 and 18 – 20, of record in the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn.

Applicant's arguments regarding the Claims 1 – 11 and 18 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al (European Patent No. 0498249) in view of Rossini (U.S. Patent No. 5,658,420) and Wallace (European Patent No. 0023788), of record on page 2 of the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 7 of Paper No.6, that Wallace teaches a closure sheet, and that the previous Action erroneously states that Wallace teaches a heat shrinkable webs adhered together.

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However, the previous Action only states that Wallace teaches the use of a heat shrinkable adhesive tape to bond web edges together; it is not stated that Wallace teaches two separate webs. The bonding of two separate webs using a splice is taught by Anderson (page 8, lines 4 – 9), and it is stated in the previous Action that it would have been obvious for one of ordinary skill in the art to use the tape of Wallace to bond the edges of two separate webs, as the tape is taught by Wallace for the bonding of web edges.

Applicant also argues on page 7 that the edge portion of Wallace on which the patch member is received is not arranged in an abutting relationship with the opposite edge of the sheet.

However, the edges of the sheet which are bonded by the patch are overlapping (second paragraph, page 18) and are therefore in an abutting relationship.

Applicant also argues on page 7 that one skilled in the art, considering the flying splice devices of Anderson and Rossini, would not be motivated to resort to the pipe closure taught by Wallace.

However, the closure taught by Wallace is used for the covering of any elongate substrate; a pipe is only one example which is provided (Abstract). Furthermore, Anderson teaches the covering of an elongate object (container; page 2, lines 1 – 5); therefore, as stated in the previous Action, one of ordinary skill in the art would be motivated to have provided for the tape of Wallace in Anderson, as the container of Anderson and the elongate object of Wallace are analogous.

Applicant also argues on page 7 that Wallace teaches away from the claimed invention by teaching that the adhesive tape should not be heat shrinkable.

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However, Wallace teaches that although it is preferable that the tape not be heat shrinkable, it can be heat shrinkable (second paragraph, page 5).

Applicant also argues, on page 8, that the rejection is improper because Claim 5 requires that the label include at least two heat shrinkable webs having a leading end and a trailing end and at least one heat shrinkable splice tape adhered to portions of the webs adjacent the leading and trailing ends thereof.

However, as stated on page 3 of the previous Action, Anderson teaches the splicing one web to another in the labeling of containers (page 8, lines 4 – 9) and therefore teaches the label include at least two heat shrinkable webs having a leading end and a trailing end and at least one splice adhered to portions of the webs adjacent the leading and trailing ends thereof. Furthermore, the heat shrinkability of the splice tape is taught by Wallace, which teaches the use of a shrinkable tape to form a adhere web edges as discussed above. A label including at least two heat shrinkable webs having a leading end and a trailing end and at least one heat shrinkable splice tape adhered to portions of the webs adjacent the leading and trailing ends thereof is therefore taught by Anderson, Rossini, and Wallace.

Applicant also argues on page 8 that Wallace fails to teach a splice tape which has bi – directional shrinkage and a web which substantially matches the bi – directional shrinkage of the splice tape.

However, as stated above, Wallace teaches that the splice tape, and therefore the web, changes dimension in the longitudinal and / or transverse direction (first paragraph; page 6); the shrinkage of the splice tape and web are therefore bi – directional; furthermore Wallace teaches that the properties of the patch are selected to allow the patch to deform in the areas of greatest

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stress to evenly distribute the stress caused by the shrinkage of the web to avoid peeling of the tape away from the web. Therefore, one of ordinary skill in the art would have recognized the utility of varying the shrinkage of the tape to obtain a desired amount of deformation relative to the web. Therefore, the amount of deformation relative to the web would be readily determined through routine optimization of shrinkage by one having ordinary skill in the art depending on the desired end use of the product.

It therefore would be obvious for one of ordinary skill in the art to vary the shrinkage of the tape in order to obtain a desired amount of deformation relative to the web, since the amount of deformation relative to the web would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Wallace.

Applicant also argues, on page 9, that Claim 18 requires that the label include first and second heat shrinkable web segments such that the second edge of the first web segment is juxtaposed to and aligned with the first end edge of the second web segment.

However, the edges of the sheet which are bonded by the patch are overlapping (second paragraph, page 18), and are therefore such that the second edge of the first web segment is juxtaposed to and aligned with the first end edge of the second web segment.

Applicant also argues, on page 9, that Claim 18 requires a splice tape including a heat shrinkable portion and an adhesive coating.

However, as stated on page 3 of the previous Action, the heat shrinkable tape taught by Wallace comprises an adhesive coating (first paragraph, page 10).

Applicant also argues on page 9 that Claim 18 requires a label which includes first and second webs having terminal end portions arranged in an abutting relationship.

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However, the edges of the sheet which are bonded by the patch are overlapping (second paragraph, page 18), and are therefore arranged in an abutting relation.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold

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Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 5/14/04